

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ALFONSO HERNANDEZ,

Plaintiff,

v.

Case No.: 14-cv-00964 KG/SCY

CITY OF ALBUQUERQUE, *ET AL.*,

Defendants.

MOTION TO QUASH SUBPOENA

Plaintiff, Alfonso Hernandez, by and through his attorneys of record, GORENCE & OLIVEROS, P.C. (Louren Oliveros) and AEQUITAS LAW, LLC (Anna C. Martinez), pursuant to Fed. R. Civ. P. 45(c)(3)(A), hereby moves the Court to quash Defendant Andy Fitzgerald's Subpoena for Production or Inspection to the New Mexico Child Support Enforcement Division dated December 18, 2018. In support of this motion, Plaintiff states as follows:

1. Pursuant to the Court's Order Granting Extension of Case Management Deadlines, the discovery deadline was December 20, 2017. (Doc. 136)
2. Defendant Andy Fitzgerald's subpoena to the New Mexico Child Support Enforcement Division, attached hereto as Exhibit 1, is dated December 18, 2017 and requests the New Mexico Child Support Enforcement Division produce records by December 26, 2018¹ by 5:00 p.m., after the discovery deadline. As such, the subpoena is untimely. *Id.*
3. The subpoena requests that the New Mexico Child Support Enforcement Division produce the following:

¹ Plaintiff presumes that the deadline was intended to be December 26, 2017. Nonetheless, such a deadline is still after the December 20, 2017 discovery deadline, and is untimely.

[C]opies of any and all child support records concerning Alfonso Hernandez...including but not limited to recordings regarding child support of his three children....

4. This case concerns Defendant Andy Fitzgerald's unlawful use of force against Plaintiff on August 30, 2012. As such, the child support records requested by Defendant Andy Fitzgerald's subpoena will not lead to relevant and proportional discovery evidence in this case. *See* Fed. R. Evid. 26(b)(1).
5. The subpoena to the New Mexico Child Support Enforcement Division is intended solely to harass and/or invade the privacy interests of Plaintiff, and therefore should be quashed.

WHEREFORE, Plaintiff respectfully requests that the Court quash the Defendant Andy Fitzgerald's Subpoena for Production and Inspection served on the New Mexico Child Support Enforcement Division.

Respectfully submitted,

GORENCE & OLIVEROS, P.C.

/s/ Amye Green

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on December 22, 2017, I filed the foregoing through this Court's CM/ECF filing system causing an electronic copy of the foregoing to be served upon all counsel of record.

/s/ Amye Green
Amye Green